

Remarks

In response to the Office Action dated February 23, 2007, Applicants respectfully request reconsideration based on the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance. Claims 1-3 and 6-11 are pending. Claim 21 has been previously withdrawn in response to a previous restriction requirement.

As a preliminary matter, the Office Action cites the Ficco reference as U.S. Patent Application 2005/0166244 A1. In fact, Ficco has a document number of 2005/0166224 A1.

Interview Summary

An informal telephone interview was conducted on April 4, 2007 between Examiner Beliveau and Applicant's representative, Arno Naeckel. During the interview, it was confirmed that the document number for the Ficco reference provided in the Office Action was a typographical error and that it should read 2005/0166224 A1. It was further discussed that the Office Action was conceding in its §103 rejection that Zigmond failed to disclose an element of claim 1 but was at the same time asserting that Zigmond was a §102 reference against claim 1 which is illogical.

102 Rejections

Claims 1-3 and 6-11 have been rejected under 35 USC §102(e) as being anticipated by Zigmond (US Pat. 6,698,020). The office action rejects independent claim 1 by asserting that Zigmond describes all of the claim elements. Applicants respectfully traverse these rejections.

Independent claim 1 recites, in pertinent part:

“[a] method for inserting targeted advertisements into a media delivery stream during broadcast media programming... receiving a signal in the media delivery device to insert a stored advertisement into the media delivery stream during broadcast media programming wherein the signal to insert the stored advertisement is sent with the broadcast media programming...wherein the signal includes at least one classification for one or more of the categories as provided in the table for selecting a commercial stored in the database for insertion into the media delivery stream”.

In its rejection, the Office Action cites Column 11, l. 31-49; Column 11, l. 65-Column 12, l. 32 and Column 16, l. 43-56 of Zigmond as describing that the received “‘signal’...includes at least one classification for one or more categories as provided in the table for selecting a commercial stored in the database for insertion into the media delivery stream”. However,

Applicants respectfully assert that the specific citations, and Zigmond read in its entirety, are contrary to the claim recitations. The cited portions of Zigmond merely describe that both of the advertisement segments and advertisement selection criteria (including advertisement criteria and advertisement selection rules) are delivered to the insertion device by any available means, including pre-installation, such that the advertisement selection criteria are received within the insertion device before an advertisement is selected in response to an advertisement substitution trigger event being detected. (Col. 11-16). Zigmond does not describe that “the signal [for insertion] includes at least one classification for one or more of the categories as provided in the table for selecting a commercial stored in the database for insertion into the media delivery stream”. All of the selection function in Zigmond is done by the selection criteria previously downloaded to the insertion device. In Zigmond, the signal for insertion in the broadcast media programming does not include a classification and has nothing to do with the actual advertisement selection.

Because Zigmond fails to describe that “the signal includes at least one classification for one or more of the categories as provided in the table for selecting a commercial stored in the database for insertion into the media delivery stream.” Zigmond fails to describe each and every claim element. Therefore, independent claim 1 is allowable over Zigmond for at least these reasons. Dependent claims 2-3 and 6-11 depend from an allowable amended independent claim 1 and are allowable for at least the same reasons.

103 Rejections

Independent claim 1 stands rejected under 35 USC §103(a) as being unpatentable under Zigmond in view of Ficco (U.S. Pat. App. 2005/0166224). Claim 7 stands rejected under 35 USC §103(a) as being unpatentable under Zigmond in view of Ficco and further in view of Hite (U.S. Pat. 5,774,170). Applicants respectfully traverse the rejections

Claims 1-3 and 6-11

The Office Action rejects independent claim 1 by asserting that Zigmond describes all of the claim elements but concedes that “it is unclear if the ‘database’ is necessarily organized by tables”. The Office Action proceeds by asserting that Ficco cures the conceded deficiency of

Zigmond. Applicants respectfully assert that Ficco and/or Hite fails to cure this and additional deficiencies in Zigmond.

As described above in regards to amended independent claim 1, Zigmond fails to describe “receiving a signal in the media delivery device to insert a stored advertisement into the media delivery stream during broadcast media programming wherein the signal to insert the stored advertisement is sent with the broadcast media programming...wherein the signal includes at least one classification for one or more of the categories as provided in the table for selecting a commercial stored in the database for insertion into the media delivery stream”. Ficco describes an Advertisement Selection Generator that compiles a concatenated factor based on several viewer characteristics and then selects the stored advertisement that matches the compiled factor. (Para. 5, 210; Para. 71). Using an Advertisement Selection Generator within the storage device is not “receiving a signal in the media delivery device to insert a stored advertisement into the media delivery stream during broadcast media programming wherein the signal to insert the stored advertisement is sent with the broadcast media programming...wherein the signal includes at least one classification for one or more of the categories as provided in the table for selecting a commercial stored in the database for insertion into the media delivery stream” because the Advertisement Selection generator does not receive a signal that includes at least one classification for selecting a commercial stored in the database for insertion into the media delivery stream.

Therefore, for at least the above reasons, the combination of Zigmond and Ficco fails to describe each of the claim elements. As such, the Office Action has failed to establish a prima facie case of obviousness and amended independent claim 1 is allowable over the combination of Zigmond and Ficco for at least this reason. Claims 2-3 and 6-11 depend from an allowable independent claim 1 and are allowable for at least the same reasons.

Claim 7

Claim 7 depends from an allowable claim 6 and independent claim 1 and therefore shares their features. As such, claim 7 is allowable for at least the same reasons.

In addition, Claim 7 further recites that “the at least one advertisement is a plurality of advertisements, further comprises the step of selecting an advertisement from the at least one

advertisement having a classification provided in the signal by weighting the relative importance of each category in the table”.

Applicants note that Hite merely describes displaying a commercial when a CID in the commercial matches a CID in an addressable recording device where all of the attributes of a commercial are appended to the CID. Matching CIDs is not selecting an advertisement from the at least one advertisement having a classification **provided in the signal** by weighting the relative importance of each category in the table. As Hite fails to describe selecting an advertisement from the at least one advertisement having a classification provided in the signal by weighting the relative importance of each category in the table, Hite fails to cure these deficiencies in the combination of Zigmond and Ficco. Therefore, since Hite fails to cure the deficiencies in the combination of Zigmond and Ficco, the combination of Zigmond, Ficco and Hite fails to describe each and every claim element. As such, the Office Action has failed to establish a prima facie case of obviousness and claim 7 is allowable over their combination for at least these reasons.

Conclusion

In view of the foregoing remarks, Applicants respectfully assert that the present application is in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is invited to call the Applicant's attorney at the number listed below.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: May 13, 2007

/Arno Naeckel/
Arno Naeckel
Reg. No. 56,114

Withers & Keys, LLC
P.O. Box 71355
Marietta, GA 30007-1355
(770)-518-9822